

SECOND REGULAR SESSION

HOUSE BILL NO. 1441

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HARLAN.

Read 1st time January 14, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

3665L.011

AN ACT

To repeal section 166.415, RSMo, and to enact in lieu thereof two new sections relating to the Missouri higher education savings program.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 166.415, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 166.415 and 166.456, to read as follows:

166.415. 1. There is hereby created the "Missouri Higher Education Savings Program".

2 The program shall be administered by the Missouri higher education savings program board

3 which shall consist of the Missouri state treasurer who shall serve as chairman, the commissioner

4 of the department of higher education, the commissioner of the office of administration, the

5 director of the department of economic development and two persons having demonstrable

6 experience and knowledge in the areas of finance or the investment and management of public

7 funds, one of whom is selected by the president pro tem of the senate and one of whom is

8 selected by the speaker of the house of representatives. The two appointed members shall be

9 appointed to serve for terms of four years from the date of appointment, or until their successors

10 shall have been appointed and shall have qualified. The members of the board shall be subject

11 to the conflict of interest provisions of section 105.452, RSMo. Any member who violates the

12 conflict of interest provisions shall be removed from the board. In order to establish and

13 administer the savings program, the board, in addition to its other powers and authority, shall

14 have the power and authority to:

15 (1) Develop and implement the Missouri higher education savings program and,

16 notwithstanding any provision of sections 166.400 to 166.455 to the contrary, the savings

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

17 programs and services consistent with the purposes and objectives of sections 166.400 to
18 166.455;

19 (2) Promulgate reasonable rules and regulations and establish policies and procedures
20 to implement sections 166.400 to 166.455, to permit the savings program to qualify as a
21 "qualified state tuition program" pursuant to Section 529 of the Internal Revenue Code and to
22 ensure the savings program's compliance with all applicable laws;

23 (3) Develop and implement educational programs and related informational materials
24 for participants, either directly or through a contractual arrangement with a financial institution
25 for investment services, and their families, including special programs and materials to inform
26 families with young children regarding methods for financing education and training beyond high
27 school;

28 (4) Enter into agreements with any financial institution, the state or any federal or other
29 agency or entity as required for the operation of the savings program pursuant to sections
30 166.400 to 166.455;

31 (5) Enter into participation agreements with participants;

32 (6) Accept any grants, gifts, legislative appropriations, and other moneys from the state,
33 any unit of federal, state, or local government or any other person, firm, partnership, or
34 corporation for deposit to the account of the savings program;

35 (7) Invest the funds received from participants in appropriate investment instruments to
36 achieve long-term total return through a combination of capital appreciation and current income;

37 (8) Make appropriate payments and distributions on behalf of beneficiaries pursuant to
38 participation agreements;

39 (9) Make refunds to participants upon the termination of participation agreements
40 pursuant to the provisions, limitations, and restrictions set forth in sections 166.400 to 166.455
41 and the rules adopted by the board;

42 (10) Make provision for the payment of costs of administration and operation of the
43 savings program;

44 (11) Effectuate and carry out all the powers granted by sections 166.400 to 166.455, and
45 have all other powers necessary to carry out and effectuate the purposes, objectives and
46 provisions of sections 166.400 to 166.455 pertaining to the savings program; and

47 (12) Procure insurance, guarantees or other protections against any loss in connection
48 with the assets or activities of the savings program.

49 **2. Members of the board may designate a proxy that enjoys full voting privileges.**
50 **Proxies shall be considered members of the board for the purpose of establishing a**
51 **quorum.**

52 **3. Four members of the board shall constitute a quorum. No vacancy in the membership**

53 of the board shall impair the right of a quorum to exercise all the rights and perform all the duties
54 of the board. No action shall be taken by the board except upon the affirmative vote of a
55 majority of the members present.

56 [3.] 4. The board shall meet within the state of Missouri at the time set at a previously
57 scheduled meeting or by the request of any four members of the board. Notice of the meeting
58 shall be delivered to all other trustees in person or by depositing notice in a United States post
59 office in a properly stamped and addressed envelope not less than six days prior to the date fixed
60 for the meeting. The board may meet at any time by unanimous mutual consent. There shall be
61 at least one meeting in each quarter.

62 [4.] 5. The funds shall be invested only in those investments which a prudent person
63 acting in a like capacity and familiar with these matters would use in the conduct of an enterprise
64 of a like character and with like aims, as provided in section 105.688, RSMo. The board may
65 delegate to duly appointed investment counselors authority to act in place of the board in the
66 investment and reinvestment of all or part of the moneys and may also delegate to such
67 counselors the authority to act in place of the board in the holding, purchasing, selling, assigning,
68 transferring or disposing of any or all of the securities and investments in which such moneys
69 shall have been invested, as well as the proceeds of such investments and such moneys. Such
70 investment counselors shall be registered as investment advisors with the United States
71 Securities and Exchange Commission. In exercising or delegating its investment powers and
72 authority, members of the board shall exercise ordinary business care and prudence under the
73 facts and circumstances prevailing at the time of the action or decision. No member of the board
74 shall be liable for any action taken or omitted with respect to the exercise of, or delegation of,
75 these powers and authority if such member shall have discharged the duties of his or her position
76 in good faith and with that degree of diligence, care and skill which a prudent person acting in
77 a like capacity and familiar with these matters would use in the conduct of an enterprise of a like
78 character and with like aims.

79 [5.] 6. No investment transaction authorized by the board shall be handled by any
80 company or firm in which a member of the board has a substantial interest, nor shall any member
81 of the board profit directly or indirectly from any such investment.

82 [6.] 7. No trustee or employee of the savings program shall receive any gain or profit
83 from any funds or transaction of the savings program. Any trustee, employee or agent of the
84 savings program accepting any gratuity or compensation for the purpose of influencing such
85 trustee's, employee's or agent's action with respect to the investment or management of the funds
86 of the savings program shall thereby forfeit the office and in addition thereto be subject to the
87 penalties prescribed for bribery.

166.456. All personally identifiable information concerning participants and

2 beneficiaries of accounts established within the Missouri higher education savings program
3 pursuant to sections 166.400 to 166.456 shall be confidential, and any disclosure of such
4 information shall be restricted to purposes directly connected with the administration of
5 the program.